

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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## HAND & NAIL HARMONY, INC. and NAIL ALLIANCE, LLC,

Case No. 2:15-cv-01191-GMN-PAL

## ORDER

(Am. Mot. Expedited Discovery – Dkt. #13)

GUANGZHOU COCOME COSMETICS CO.  
LTD., et al.,

## Defendants.

This matter is before the Court on Plaintiffs Hand & Nail Harmony, Inc. and Nail Alliance, LLC's Amended Emergency *Ex Parte* Motion for Expedited Discovery (Dkt. #13) filed July 6, 2015. This matter was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and LR JB 1-3 and 1-9. The Court has considered the Motion.

This case arises from Plaintiffs’ allegations that Defendants violated the Lanham Act, 15 U.S.C. § 1051 *et seq.*, by infringing on their trademarks. On June 23, 2015, Plaintiffs filed a Complaint (Dkt. #1) and moved for injunctive relief to include a temporary restraining order (“TRO”) as well as an order authorizing expedited discovery and seizure of infringing goods at a trade show. *See* Mots. (Dkt. ##3–7).<sup>1</sup> On July 10th, Chief District Judge Gloria M. Navarro held a hearing on the motions and issued a seizure order and TRO, which was set to expire 10 days after issuance. *See* Mins. of Proceedings (Dkt. #23); Order (Dkt. #29). A hearing was also scheduled on July 20th for Defendants to show cause why a preliminary injunction should not

<sup>1</sup> Plaintiffs' request for expedited discovery was only briefed in the original Motion for Expedited Discovery (Dkt. #6), not the Amended Motion for Expedited Discovery (Dkt. #13). It appears that the memorandum of points and authorities filed in support of the Amended Motion was intended to supplement the original Motion. Thus, the Court has considered the arguments in the original Motion.

1 issue. *Id.* However, the Court's Minutes and the Order did not specifically address Plaintiffs' 2 request for expedited discovery. *Id.* See also July 10, 2015 Hr'g Tr. (Dkt. #47).

3 When a party obtains a seizure order pursuant to the Lanham Act, the statute requires 4 federal courts to hold a hearing within 10 to 15 days in which the moving party is required to 5 prove that a seizure order is still warranted. *See* 15 U.S.C. § 1116(d)(10)(A). The statute 6 authorizes a court to issue orders modifying the normal time limits for discovery under the Rules 7 of Civil Procedure "as may be necessary to prevent the frustration of *the purposes of such* 8 *hearing.*" 15 U.S.C. § 1116(d)(10)(B) (emphasis added).

9 In this case, the expedited hearing contemplated by 15 U.S.C. § 1116(d)(10)(B) took 10 place on July 20, 2015. A review of the docket reveals that expedited discovery was not 11 necessary for the Court to address the seizure authorized by the Order (Dkt. #29). During the 12 July 20th show cause hearing, the Court instructed Plaintiffs to "file photographs of the seized 13 items for the Court's review" and denied Plaintiff's motion for preliminary injunction without 14 prejudice. *See* Mins. of Proceedings (Dkt. #48). Expedited discovery can no longer prevent the 15 frustration of a show cause hearing that has already taken place. As such, Plaintiffs' Amended 16 Motion for Expedited Discovery (Dkt. #13) is now moot.

17 Accordingly,

18 **IT IS ORDERED** that Plaintiffs Hand & Nail Harmony, Inc. and Nail Alliance, LLC's 19 Amended Emergency *Ex Parte* Motion for Expedited Discovery (Dkt. #13) is DENIED without 20 prejudice.

21 Dated this 18<sup>th</sup> day of August, 2015.

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PEGGY A. LEEN  
24 UNITED STATES MAGISTRATE JUDGE  
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